

LEGISLATURE OF NEBRASKA  
NINETY-EIGHTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 990**

Introduced by Landis, 46

Read first time January 9, 2004

Committee: Banking, Commerce and Insurance

A BILL

- 1 FOR AN ACT relating to insurance; to amend section 44-1540, Revised
- 2 Statutes Supplement, 2002; to prohibit actions relating
- 3 to repair and replacement of personal property; and to
- 4 repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 44-1540, Revised Statutes Supplement,  
2   2002, is amended to read:

3           44-1540. Any of the following acts or practices by an  
4   insurer, if committed in violation of section 44-1539, shall be an  
5   unfair claims settlement practice:

6           (1) Knowingly misrepresenting to claimants and insureds  
7   relevant facts or policy provisions relating to coverages at issue;

8           (2) Failing to acknowledge with reasonable promptness  
9   pertinent communications with respect to claims arising under its  
10   policies;

11          (3) Failing to adopt and implement reasonable standards  
12   for the prompt investigation and settlement of claims arising under  
13   its policies;

14          (4) Not attempting in good faith to effectuate prompt,  
15   fair, and equitable settlement of claims submitted in which  
16   liability has become reasonably clear;

17          (5) Not attempting in good faith to effectuate prompt,  
18   fair, and equitable settlement of property and casualty claims (a)  
19   in which coverage and the amount of the loss are reasonably clear  
20   and (b) for loss of tangible personal property within real property  
21   which is insured by a policy subject to section 44-501.02 and which  
22   is wholly destroyed by fire, tornado, windstorm, lightning, or  
23   explosion;

24          (6) Compelling insureds or beneficiaries to institute  
25   litigation to recover amounts due under its policies by offering  
26   substantially less than the amounts ultimately recovered in  
27   litigation brought by them;

28          (7) Refusing to pay claims without conducting a

1 reasonable investigation;

2 (8) Failing to affirm or deny coverage of a claim within  
3 a reasonable time after having completed its investigation related  
4 to such claim;

5 (9) Attempting to settle a claim for less than the amount  
6 to which a reasonable person would believe the insured or  
7 beneficiary was entitled by reference to written or printed  
8 advertising material accompanying or made part of an application;

9 (10) Attempting to settle claims on the basis of an  
10 application which was materially altered without notice to or  
11 knowledge or consent of the insured;

12 (11) Making a claims payment to an insured or beneficiary  
13 without indicating the coverage under which each payment is being  
14 made;

15 (12) Unreasonably delaying the investigation or payment  
16 of claims by requiring both a formal proof-of-loss form and  
17 subsequent verification that would result in duplication of  
18 information and verification appearing in the formal proof-of-loss  
19 form;

20 (13) Failing, in the case of the denial of a claim or the  
21 offer of a compromise settlement, to promptly provide a reasonable  
22 and accurate explanation of the basis for such action;

23 (14) Failing to provide forms necessary to present claims  
24 with reasonable explanations regarding their use within fifteen  
25 working days of a request;

26 (15) Failing to adopt and implement reasonable standards  
27 to assure that the repairs of a repairer owned by or affiliated  
28 with the insurer are performed in a skillful manner. For purposes

1 of this subdivision, a repairer is affiliated with the insurer if  
2 there is a preexisting arrangement, understanding, agreement, or  
3 contract between the insurer and repairer for services in  
4 connection with claims on policies issued by the insurer; ~~and~~

5 (16) Requiring the insured or claimant to use a  
6 particular company or location for motor vehicle repair. Nothing  
7 in this subdivision shall prohibit an insurer from entering into  
8 discount agreements with companies and locations for motor vehicle  
9 repair or otherwise entering into any business arrangements or  
10 affiliations which reduce the cost of motor vehicle repair if the  
11 insured or claimant has the right to use a particular company or  
12 reasonably available location for motor vehicle repair. If the  
13 insured or claimant chooses to use a particular company or location  
14 other than the one providing the lowest estimate for like kind and  
15 quality motor vehicle repair, the insurer shall not be liable for  
16 any cost exceeding the lowest estimate. For purposes of this  
17 subdivision, motor vehicle repair shall include motor vehicle glass  
18 replacement and motor vehicle glass repair; and

19 (17) Requiring repair or replacement of tangible personal  
20 property to be accomplished in another state.

21 Sec. 2. Original section 44-1540, Revised Statutes  
22 Supplement, 2002, is repealed.